

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (E 3338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)
<p>William Ahern, Janet Beautz (for Santa Cruz County Board of Supervisors), Charlie Betcher, Robert J. Boileau, William Burns, Alvin Colley, James Crettol, Michael Gallo, Dave Hennessy, Dennis Herrera, Nettie Hoge, Walter Johnson, Fred Keeley, Reggie Knox, William Knox, Bruce Livingston, Elizabeth Martin, Barbara McIver, Robert Meacher, Deidra O'Merde, Elizabeth Sholes, Mary Frances Smith, Ladan Sobhani, Peter Van Zant, Mary Ann Woomer, and Carl Zichella,</p> <p style="text-align: right;">Complainants,</p> <p style="text-align: center;">vs.</p> <p>Pacific Gas and Electric Company,</p> <p style="text-align: right;">Defendant.</p>	<p>Case 02-02-027 (Filed February 27, 2002)</p> <p>Rehearing on End of Rate Freeze</p>

**ADMINISTRATIVE LAW JUDGE'S RULING  
DENYING MOTION FOR HEARING  
ON USE OF SURCHARGE REVENUES**

**1. Summary**

The July 25, 2002 motion of California Industrial Users (CIU) for evidentiary hearing regarding use of surcharge revenues is denied.

## **2. Background**

Decision (D.) 01-01-018 and D.01-03-082 adopt surcharges totaling \$0.04 per kilowatt-hour, but restrict use of surcharge revenues to ongoing procurement costs and future power purchases. By Assigned Commissioner's Ruling (ACR) dated July 1, 2002, parties were provided notice and opportunity to comment on possible modification to these two decisions. The modification may be to remove the restriction on the use of surcharge revenues. The July 1 ACR also set a schedule for the filing and service of comments, reply comments, motions for evidentiary hearing, and responses to motions.

On or before July 12, 2002, comments were filed and served by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), CIU, California Manufacturers & Technology Association, California Retailers Association, California Farm Bureau Federation (Farm Bureau), The Utility Reform Network (TURN), Aglet Consumer Alliance, Consumers Union, and the California Department of Water Resources. On July 22, 2002, reply comments were filed and served by PG&E, SCE, CIU, Farm Bureau, and TURN.

On July 25, 2002, CIU moved for evidentiary hearing. On July 29, 2002, the California Large Energy Consumers Association (CLECA) responded in support of CIU's motion.

## **3. Discussion**

CIU's motion is denied. The reasons for restricting the use of surcharge revenues are explained in D.01-01-018 and D.01-03-082. Parties had adequate opportunity to address legal and policy reasons in comments and reply comments filed on July 12, 2002 and July 22, 2002, respectively. CIU's motion, and CLECA's response, fail to identify any finding of fact in D.01-01-018 or

D.01-03-082 that must be modified and, even if one requires modification, fail to demonstrate that an evidentiary hearing is required.

CIU requests that hearing be held to address several issues including “are rates which include the surcharges just and reasonable,” and “what utility costs justify retaining rates at levels that include the surcharges.” (Motion, page 2.) CIU argues that removing the restriction would increase or change customer rates, and parties are entitled to develop a record that considers the basis and effect of such rate impacts.

Similarly, CLECA asserts that any change in the use to which a surcharge is put represents a rate increase. CLECA argues that a rate increase for any purpose may not be adopted absent an evidentiary hearing to review the need, cost basis, cost allocation, and rate structure. CLECA contends that there is no *a priori* reason to conclude that the allocations and rate designs adopted to implement the surcharge for one purpose would be appropriate for any other propose. CLECA concludes that hearing is necessary.

To the contrary, the issues identified by CIU and CLECA might justify evidentiary hearing if the proposed modification included a specific determination of the costs that underlie certain rate levels, and whether or not the resulting cost allocation and rates are just and reasonable. The proposed modification, however, is neither that specific nor final. Rather, the proposed modification is simply to remove the current restriction on application of surcharge revenues to ongoing procurement costs and future power purchases.

Other proceedings as necessary will determine what needs, if any, require use of surcharge revenues; whether there is any cost or other basis to support specific surcharge levels; and whether the resulting rates are just and reasonable. For example, in this rehearing on the end of the rate freeze, the Commission will first determine “whether rate controls [i.e., rate freeze] under AB [Assembly Bill]

1890 should be ended.” (D.02-01-001, Ordering Paragraph 2.) The Commission will then “determine the extent and disposition of stranded costs left unrecovered, and will address this in proceedings subsequent to our determinations regarding the rate freeze.” (D.02-01-001, mimeo., page 25.) These further proceedings will include evidentiary hearing, if necessary, to consider disposition of stranded costs and whether the resulting rates are just and reasonable. Similarly, Investigation 02-04-026 will consider whether or not the Commission’s alternative Plan of Reorganization for Pacific Gas and Electric Company results in just and reasonable rates.

CIU also argues that hearing is required because the effect of removing the restriction may be to keep the surcharge rates in effect longer than originally anticipated, thereby effecting a rate increase. To the contrary, this does not justify hearing for the reasons already explained by the Commission.

(D.02-01-001, mimeo., pages 7-8.)

For example, removing the restriction on application of surcharge revenues does not by itself either extend or shorten the period of surcharge implementation. Whether and when a surcharge should no longer be assessed will be determined elsewhere, as discussed above, not as a result of keeping or removing the restriction on use of surcharge revenues.

**IT IS RULED** that the July 25, 2002 motion of California Industrial Users for evidentiary hearing regarding use of surcharge revenues is denied.

Dated September 23, 2002, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion for Hearing on Use of Surcharge Revenues on all parties of record in this proceeding or their attorneys of record.

Dated September 23, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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